



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES**

JULY 26, 2001

Honorable Nancy S. Grasmick
State Superintendent of Schools
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Dear Superintendent Grasmick:

The U.S. Department of Education's Office of Special Education Programs (OSEP) conducted a review in Maryland during the week of October 25 – 29, 1999 for the purpose of assessing compliance in the implementation of the Individuals with Disabilities Education Act (IDEA) and assisting Maryland in developing strategies to improve results for children with disabilities. The IDEA Amendments of 1997 focus on access to services as well as improving results for infants, toddlers, children and youth with disabilities. In the same way, OSEP's Continuous Improvement Monitoring Process is designed to focus Federal, State and local resources on improved results through a working partnership among OSEP, MSDE, and parents and advocates in Maryland.

A critical aspect of the Continuous Improvement Monitoring Process is collaboration between MSDE and OSEP and the members of the Steering Committee who represent broad-based constituencies. The Steering Committee assessed the effectiveness of State systems for ensuring improved results for children with disabilities and protection of individual rights. In addition the Steering Committee will be designing and coordinating implementation of specific steps for improvement. The Introduction section of this report provides a more detailed description of the process used in Maryland.

OSEP's review placed a strong emphasis on those areas that are most closely associated with positive results for children with disabilities. In this review, OSEP clustered Part C requirements (regarding services for children aged birth through two years) into five major areas: Child Find and Public Awareness, Family Centered Services, Early Intervention Services in the Natural Environment, Early Childhood Transition, and General Supervision. OSEP clustered Part B requirements (services for children aged three through 21 years) into four major areas: Parent Involvement, Free Appropriate Public Education in the Least Restrictive Environment, Secondary Transition, and General Supervision. OSEP identified components for each major area as a basis to review the State's performance through examination of State and local indicators.

The enclosed Report addresses strengths noted in Maryland, areas that require corrective action because they represent noncompliance with the requirements of IDEA, and technical assistance regarding improvement for best practice. Enclosed you will find an Executive Summary of the

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

Report, an Introduction including background information, and a description of issues and findings.

We understand that this Report will be shared with members of the Steering Committee, the State Interagency Coordinating Council, the State Advisory Panel, and members of the public. OSEP will work with your Steering Committee to develop corrective actions and improvement strategies to ensure improved results for children with disabilities.

Thank you for the assistance and cooperation provided by your staff during our review. Throughout the course of the review, Ms. Carol Ann Baglin, Ms. Deborah Metzger and members of their staff were responsive to OSEP's request for information. They provided access to necessary documentation that enabled OSEP staff to work in partnership with the Steering Committee to better understand the State's system for implementing IDEA. A significant effort was made by State staff to arrange the public input process during the validation planning week. As a result of the State's efforts, OSEP obtained information from a large number of parents (including underrepresented groups), advocates, school personnel, school administrators, local and State special education administrators, and service providers.

Thank you for your continued efforts toward the goal of achieving better results for infants, toddlers, children and youth with disabilities in Maryland. Since the enactment of the IDEA and its predecessor, the Education of All Handicapped Children Act, one of the basic goals of the law, ensuring that children with disabilities are not excluded from school, has largely been achieved. Today, families can have a positive vision for their child's future.

While schools and agencies have made great progress, significant challenges remain. Now that children with disabilities are receiving services, the critical issue is to place greater emphasis on attaining better results. To that end, we look forward to working with you in partnership to continue to improve the lives of individuals with disabilities.

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: Ms. Carol Ann Baglin
Ms. Deborah Metzger

EXECUTIVE SUMMARY

MARYLAND MONITORING 1999

The attached report contains the results of the first two steps (Validation Planning and Validation Data Collection) in the Office of Special Education Programs' (OSEP) Continuous Improvement Monitoring Process of the Individuals with Disabilities Education Act (IDEA), Parts B and C, in the State of Maryland during August 1999 and October 1999. The process is designed to focus resources on improving results for infants, toddlers and children with disabilities and their families through enhanced partnerships between State agencies, OSEP, parents and advocates. The Validation Planning phase of the monitoring process included a series of public forums with guided discussions around core ideas of IDEA and the organization of a Steering Committee that provided further comments on the information. The Validation Data Collection phase included interviews with parents, agency administrators, local program and school administrators, service providers, teachers and service coordinators, and reviews of children's records. OSEP shared the information obtained from these data sources in a meeting attended by staff from the Maryland State Department of Education (MSDE) and the Steering Committee.

The Report includes a detailed description of the process utilized to collect data, and to determine strengths, areas of non-compliance with IDEA, and suggestions for improved results for children.

Early Intervention Services for Infants and Toddlers with Disabilities: Part C of IDEA

Areas of Strength

OSEP observed the following strengths:

- Fostering Capacity Building at the State and Local Level
- Interagency Collaborative Efforts
- The Family Support Network
- Parent Involvement in Policy Development
- Coordination of Financial Resources Between Part C and Part B to Promote Transition Activities
- Transition Process Enhanced Through the Use of Developmental Delay Category

Areas of Noncompliance

OSEP observed the following noncompliance:

- Lack of Effective Monitoring Procedures to Ensure Compliance among Participating Agencies
- Failure to Provide Evaluations in all Developmental Areas, and Failure to Document Information on IFSPs

- Lack of Continuous Services, and Failure to Provide Parent Rights when Services Change
- Failure to Comply with Natural Environment Requirements
- Lack of Effective Strategies to Ensure Opportunity for Family Assessment
- Transition Meeting Not Held within 90 Days

Education of Children and Youth with Disabilities

Part B of IDEA

Areas of Strength

OSEP observed the following strengths:

- Maryland Resource Centers for Families and Schools
- Technical Assistance and Dissemination of Information
- Interagency Agreements to Enhance Personnel Development
- Regional Technical Assistance Network
- MSDE-Assisted Initiatives – The Learning Lab Model and Promising Local Practice
- MSDE Task Force on Least Restrictive Environment
- Maryland Infrastructure for Transition Services
- Interagency State Plan for Transitioning Youth with Disabilities
- Maryland Youth Leadership Forum
- Nationally Recognized Model Transition Programs

Areas of Noncompliance

OSEP observed the following areas of noncompliance:

- Requiring that Students with Disabilities Be Removed from the Least Restrictive Environment in Order to Receive Special Education Services
- Failure to Provide All Related Services as a Part of a Free Appropriate Public Education
- Lack of Participation in Statewide Assessments of Students Placed in Nonpublic Schools
- Complaint Management System – Complaint Timelines Are Not Always Met

MARYLAND MONITORING REPORT
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INTRODUCTION

Background About the State of Maryland System

The State of Maryland is located in the Mid-Atlantic region of the United States. The State has a population of more than 5.1 million with urban, suburban and rural areas. The U.S. Bureau of the Census reported in 1998 that 205,540 children, birth to three years of age, reside in the State. *The Model-Based Income and Poverty Estimate for 1996* indicated that children under the age of five years accounted for the largest percentage, 14.1%, of persons living in poverty in the State. *The KIDS Count Special Report: the Right Start, 1997* indicated that the status of child well-being in Maryland, as demonstrated by maternal and child risk factors, was consistent with or exceeded the national averages.

The Maryland State Department of Education (MSDE) Division of Special Education/Early Intervention Services administers both Part C and Part B State and federal programs for special education and early intervention services. The Division includes five branches: Maryland Infants and Toddlers Program/Preschool Services Branch, Program Administration and Support Services Branch, Program Evaluation and Compliance Branch, Community and Interagency Services Branch, and Instructional Support and Program Development Branch. Fifty-two staff members work in the five branches.

The Early Intervention Program is implemented by MSDE through program arrangements with public agencies in each of the 24 counties in Maryland. These public agencies include nine local school districts, twelve local health departments, a local office for children and youth, a local department of health and human services, and a local department of family services. These 24 public agencies provide early intervention services through local government personnel, contractual arrangements, or interagency agreements. The State's Part C child count as of December 1, 1998 indicated that the early intervention system served 4,118 children, ages birth to three years.

The local education operating budget for all twenty-four Maryland school districts from all federal, State and local sources for public education is \$5.9 billion. The average cost per pupil is \$7,100. Maryland teachers with a Master's Degree or higher level of education comprise 67% of the teaching profession. The total student population in the Fall of 1998 was 1,017,293 of which 175,622 students were enrolled in nonpublic schools and 841,671 were enrolled in public schools. Maryland has no charter schools. The public agencies with the largest percent of students with disabilities are Baltimore City, the State's largest urban area, and Allegany County, a rural county in the western region of the State. Students with disabilities make up 17.1% of the total enrollment in Baltimore City and in Allegany County, 16.7%. Prince George's and Howard Counties have the smallest percent of students with disabilities, each reporting approximately 10%.

Among school-age students with disabilities, students with specific learning disabilities are the largest percent of students with disabilities, 40.7%, followed by speech and language impairments, 27.7%. Students identified as deaf/blind are the smallest percent of students with disabilities, .02%. There were 111,688 special education students in Maryland in the Fall of

1998. More than 900 of these students were served in facilities administered by the Maryland Department of Juvenile Services, the Maryland Department of Correction, the Maryland School for the Blind, and the Maryland School for the Deaf.

The State of Maryland instituted Local Management Boards to address regional, cultural, ethnic, and socioeconomic diversity across the State as a means to improve overall child and family outcomes. By addressing the State's diverse needs, the Local Management Boards have an infrastructure in place that fosters the collaboration of resources, minimizes duplication of effort and promotes partnerships with families and community agencies.

Validation Planning: Part C and Part B

During September 1999, OSEP and the Part B and Part C State Joint Steering Committee conducted public forums in Annapolis, Baltimore, Easton and Hagerstown. An additional focus group was convened in Prince George's County. The purpose of these meetings was to obtain information about issues and concerns regarding IDEA service delivery. The four areas under Part B of IDEA (services for children ages three through 21 years) addressed were: Parent Involvement, Free Appropriate Public Education in the Least Restrictive Environment, Secondary Transition, and General Supervision. The five areas under Part C of IDEA (services for infants and toddlers ages birth to three years) addressed were: Child Find and public Awareness, Family Centered Services, Early Intervention Services in the Natural Environment, Early Childhood Transition, and General Supervision. More than 400 persons participated in these meetings.

Preliminary results from the public forums as well as the results of the State Self-Assessment conducted by MSDE were shared with the Steering Committee. MSDE and OSEP discussed recommended sites for OSEP to visit during the Validation Data Collection Phase and identified data gathering strategies for OSEP's Validation Data Collection Visit.

Validation Data Collection: Part C and Part B

OSEP visited the State during the week of October 25, 1999 to collect additional information on issues identified during the Validation Planning Phase. As part of its review OSEP collected information concerning the status of the State's implementation of the IDEA Amendments of 1997. The information included State policies and other guidance issued by the State. OSEP also reviewed State mechanisms for ensuring compliance with IDEA such as complaint management, procedural safeguards, due process procedures and the monitoring system.

During its onsite Validation Data Collection, OSEP visited Baltimore City, Worcester County, Prince George's County, Washington County, Anne Arundel County (Part B only), Carroll County (Part B only), Talbot County, and Montgomery County. MSDE and OSEP selected these sites because they represented rural and urban/suburban areas. At each site OSEP reviewed children's records, including IFSPs and IEPs as appropriate, minutes of IFSP and IEP meetings, and parent notices informing parents of meetings. OSEP also collected local agency, school and district placement data, local policies and procedures, and reviewed MSDE monitoring reports. OSEP conducted interviews with school-based and central office administrators responsible for

implementation of Part B. OSEP also interviewed parents, students, local early intervention service providers, service coordinators, teachers, administrators, teachers and related service personnel as appropriate. OSEP selected regular education teachers who taught children with disabilities in their classrooms, and special education teachers involved in the development or implementation of IEPs.

Improvement Planning

In response to this report, MSDE will develop an action plan addressing areas requiring improvement as identified in the report. Approximately 60 days after the issuance of this report, OSEP will visit Maryland to work with MSDE to finalize an improvement plan. During this visit, OSEP will assist the Steering Committee in identifying strategies to implement program improvement, sources of technical assistance, timelines for completing strategies, and methods for evaluating the effectiveness of the improvement plan.

I: PART C: GENERAL SUPERVISION AND ADMINISTRATION

The State lead agency is responsible for developing and maintaining a Statewide, comprehensive, coordinated, multidisciplinary, interagency early intervention system. Administration, supervision and monitoring of the early intervention system are essential to ensure that each eligible child and family receives the services needed to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay. Early intervention services are provided by a wide variety of public and private entities. Through supervision and monitoring, the State ensures that all agencies and individuals providing early intervention services meet the requirements of IDEA, whether or not they receive funds under Part C.

While each State must meet its general supervisory and administrative responsibilities, the State may determine how that will be accomplished. Mechanisms such as interagency agreements and/or contracts with other State-level or private agencies can serve as the vehicle for the lead agency's implementation of its monitoring responsibilities. The State's role in supervision and monitoring includes: (1) identifying areas in which implementation does not comply with Federal requirements; (2) providing assistance in correcting identified problems; and (3) as needed, using enforcing mechanisms to ensure correction of identified problems.

Validation Planning and Data Collection

The MSDE's self-assessment identified several component areas as exemplary, acceptable progress, or as a priority for improvement. The State identified exemplary supervision and monitoring activities, timely implementation of complaints, mediation and due process procedures, and ensuring service continuation during resolution of interagency disputes. Areas of acceptable progress in the State's Self-Assessment included the following: correction of noncompliance issues in a timely manner, training in procedural safeguards, referral, eligibility, and IFSP development for parents. Issues identified as priorities for improvement included ensuring timely services through interagency coordination, revising interagency agreements, ensuring that other sources of funding are utilized before using Part C funds, providing services in the natural environments through interagency coordination, and the coordination of resources.

Maryland has revised its monitoring protocols to ensure that programs providing early intervention services are monitored on a regular basis. During the public input sessions, administrators and local program staff told OSEP that while the State has provided technical assistance to resolve an immediate issue, some of the participating early intervention programs are not monitored on a regular basis. The MSDE staff shared with OSEP staff the revised monitoring schedule and revisions to monitoring materials for Part C and will begin testing these materials in the next monitoring cycle to ensure that the materials are effective in monitoring the requirements for Part C.

Based on information obtained through the self-assessment, the public input process, review of monitoring reports, local applications, and local and State procedures, OSEP identified the following possible areas of noncompliance: (1) ineffective monitoring procedures to ensure provision of early intervention services and compliance with Part C; (2) failure to monitor all

programs participating in the statewide system of early intervention services; (3) ineffective technical assistance to address identified areas of concern; and (4) ineffective procedures to ensure corrective actions and enforcement.

During the Validation Data Collection week, OSEP collected additional information on the issues identified through the validation planning process, and data related to the Lead Agency's supervision and administration of the early intervention program. OSEP collected these from parents, service providers, State agency staff, local program providers and administrators, State Interagency Coordinating Council members and other interagency staff involved in the provision of services to infants and toddlers across Maryland. Analysis of these data resulted in identification of the following area of strength, area of noncompliance and suggestion for improvement.

A. AREA OF STRENGTH

Fostering Capacity Building at the State and Local Level

The State Interagency Coordinating Council in a collaborative partnership with MSDE formed five standing committees to identify possible barriers to the provision of timely services and implement a process to respond to time sensitive issues to minimize delays in services. The five standing committees include budget/fiscal, outreach, policy/legislative, service delivery, and training and recruitment. In addition, local interagency coordinating councils are established in each of the 24 jurisdictions, to foster capacity building at the local level and to enhance communication efforts with State staff. The local interagency coordinating councils provide a forum for collaborating agencies and constituents to examine the service delivery mode in their region. MSDE supports and facilitates capacity building at the local level through the implementation of various initiatives. Local jurisdictions are required to have interagency agreements that specify financial responsibility among participating agencies. MSDE allocates funds annually to local jurisdictions to support the implementation of promising practices to address identified needs. There is a statewide effort to track and refer at-risk children who are not eligible for Part C services to community-based supports and service. With input from local management boards, local interagency coordinating councils combine their expertise and resources to assess the effectiveness of local systems in addressing the cultural, ethnic, and socioeconomic issues confronting the children and families they serve.

B. AREA OF NONCOMPLIANCE

Lack of Effective Monitoring Procedures to Ensure Compliance among Participating Agencies

Each lead agency is responsible for the general administration and supervision of programs and activities receiving assistance under Part C and for the monitoring of programs and activities used by the State to ensure that the State complies with Part C. To meet its responsibilities, the lead agency must adopt and use proper methods of administering each program, including: (1) monitoring agencies used by the State; (2) enforcing any obligations imposed on those agencies; (3) providing technical assistance, if necessary; and, (4) correcting deficiencies that are identified

through monitoring. 34 CFR §303.501 (a) and (b). As part of MSDE's obligation for general administration, MSDE must ensure that all policies (e.g., State statutes, regulations, directives, and other written documents) to implement the early intervention system are consistent with 34 CFR Part 303.

As discussed below, OSEP determined that MSDE has not fulfilled its obligation for general administration and supervision. MSDE has failed to exercise its general supervision and administration authority to monitor all programs, enforce obligations, and correct deficiencies. In July 1997 the Governor appointed MSDE as the new Part C lead agency. MSDE staff began to address the issues noted by OSEP in the State's application for Federal FY 1998-1999 funds, by revising the policies and procedures relative to the provision of general supervision and monitoring and developing a quality assurance process. MSDE's December 1998 Annual Performance Report noted that its ability to ensure compliance with the general supervision and monitoring requirements was impeded by: (1) the change in lead agency necessitating changes in administrative infrastructure and oversight; (2) the lack of data to determine compliance since on-site monitoring had not occurred since 1996; and (3) the need to finalize MSDE's quality assurance system, *Monitoring for Quality*, to appropriately effect systems change.

MSDE staff informed OSEP that while on-site monitoring activities had not occurred since 1996, MSDE's supervision and administrative activities included: (1) reviewing and revising State policies and procedures with assistance from the State Interagency Coordinating Council; (2) reviewing local contracts prior to the distribution of funds to ensure that proposed activities and budgets are consistent with State and Federal requirements; (3) reviewing data reports; and (4) responding to time-sensitive issues presented by local programs and providers. OSEP reviewed the State's monitoring log for fiscal years 1998 and 1999, and interviewed State staff and determined that while the State's monitoring log identified problem areas that may have contributed to the delay of timely services, systemic areas of noncompliance were not identified. OSEP's review determined that while the supervisory activities provide feedback to MSDE regarding individual, local and program issues, MSDE did not have an effective statewide system to identify systemic areas of noncompliance, provide technical assistance needs, correct identified deficiencies, or enforce corrective action(s) when appropriate. As further discussed in Sections II through V of this monitoring report, MSDE does not have monitoring strategies in place to ensure that child find, natural environments, family centered practices and transition activities are sufficient to ensure that all children receive a timely evaluation, continuous services are provided in the natural environment, procedural safeguards are adhered to, and transition from Part C to Part B is timely.

To address monitoring issues, MSDE: (1) revised its monitoring protocol, *Monitoring for Quality*; and (2) formed a statewide program evaluation steering committee to partner with local program directors to integrate the monitoring process with a statewide program evaluation to assist MSDE in evaluating its statewide system. The *Monitoring for Quality* protocol proposed to minimize areas of noncompliance by: (1) continuing the administration and updating of the State's Self-Assessment and improvement plan; (2) providing guidance to local programs and providers in the interpretation and implementation of policies and procedures; and (3) conducting on-site visits to participating programs and providers. MSDE staff told OSEP that the revised general supervision protocols would be piloted in one-third of the 24 contracted regions during

fiscal year 1999-2000 and continue until implemented in all 24 programs. The purpose of the collaborative effort is to identify service delivery models and administrative structures that can result in positive outcomes for children and families.

The program evaluation steering committee will collaborate with State staff and program staff to solicit input from a variety of constituents. MSDE will solicit input to identify and analyze existing data sources, conduct surveys, interviews, and focus groups. Based on this information, the program evaluation committee along with State and program staff will propose research questions and develop case studies to improve results for eligible children in Maryland. Needed revisions to current policies and practices will be identified to facilitate the implementation of family-centered, culturally appropriate practices in the diverse regions.

MSDE identified through the development of the Self-Assessment several key issues that it targeted to improve general supervision outcomes. These key areas include: (1) enhance family centered practices by implementing strategies to solicit and incorporate family feedback into statewide evaluation; (2) improve interagency collaboration in the service delivery process by reaffirming in policy and practice the interagency mission of the statewide system; (3) improve results for children and families by improving the monitoring of incentive grants and targeted training activities; and (4) enhance efforts to address identified areas of concern through the development and implementation of a statewide technical assistance plan.

MSDE staff reported that the data compiled from these procedures would be used to determine the need for revisions to State and local monitoring protocols, if warranted to ensure continued compliance. OSEP has not been able to assess the effectiveness of the quality assurance system since it was only in operation for a short period of time when OSEP came to monitor. MSDE must ensure that all programs used by the State to carry out Part C are monitored, whether or not they receive Part C funds.

C. SUGGESTION FOR IMPROVED RESULTS FOR INFANTS, TODDLERS, AND THEIR FAMILIES

Procedures for Conducting Record Reviews

Local administrators and service coordinators in two regions visited by OSEP reported that case reviews, including a review of the child's and family's records, are conducted periodically for eligible children and their families. The case review team may be comprised of a service coordinator, interagency collaborator(s) and a parent, who is neither the parent of the child being reviewed nor an employee of the lead or local provider agency. Case reviews are viewed as a means to assess whether identified needed services are being provided and to determine if current provider practice is consistent with State and Federal requirements.

Consistent with 34 CFR §§303.401, 303.460, and 300.560-577, the lead agency must: (1) ensure that parents are fully informed of State policy that governs the disclosure of personally identifiable information, including requirements for obtaining parental consent; (2) maintain a record of disclosures; (3) fully inform parents of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication; and (4)

ensure that the parent understands and agrees in writing to carrying out the activity for which consent is sought, and that the consent describes the activity and list the records (if any) that will be released and to whom.

MSDE's procedural safeguards and parent consent protocol indicate that the provider agency must secure a signed and dated written consent from the parent that specifies the records that may be disclosed, the purpose of the disclosure, and identifies the party or class of parties to whom the disclosure may be made. It was not clear that the parent granting consent is aware that another parent is a participating member on the review team.

MSDE State staff reported that although a statewide blanket consent form is used and guidance is provided to participating providers and agencies regarding the protocol to obtain prior consent to disclose information, the State should monitor participating agencies and programs to ensure that the forms and procedures utilized are being implemented consistent with IDEA regulations.

II. PART C: CHILD FIND/PUBLIC AWARENESS

The needs of infants and toddlers with disabilities and their families are generally met through a variety of agencies. However, prior to the enactment of Part C of IDEA, there was little coordination or collaboration of service provision, and many families had difficulty locating and obtaining needed services. Searching for resources placed a great strain on families. With the passage of Part C in 1986, Congress sought to assure that all children needing services would be identified, evaluated, and served, especially those children who are typically underrepresented, (e.g., minority, low-income, inner-city, Indian and rural populations) through an interagency, coordinated, multidisciplinary system of early intervention services.

Each State's early intervention system must include child find and public awareness activities that are coordinated and collaborated with all other child find efforts in the State. Part C recognizes the need for early referral and short timelines for evaluation as development occurs at a more rapid rate during the first three years of life than at any other age. Early brain development research has demonstrated what early interventionists have known for years, that children begin to learn and develop from the moment of birth. Therefore, the facilitation of early learning, and the provision of timely early intervention services to infants and toddlers with disabilities is critical.

Validation Planning and Data Collection

MSDE's self-assessment for Part C in the area of Child Find identified components that the State determined as areas of strength including: (1) interagency coordinated child find efforts at both the State and local levels that resulted in a steady increase in the number of children identified from 1991 to 1998; (2) family friendly public education and outreach strategies that resulted in increased referrals from families; and (3) numerous culturally sensitive public awareness activities to address the growing and diverse ethnic population in the State. Several areas were identified as needing improvement or designated as a priority for improvement. Those areas included: improving data collection and analysis efforts to better identify gaps and needs, targeting public awareness efforts for physicians and underserved groups, and ensuring the availability of appropriate personnel, resources and supports for the implementation of child find and public awareness outreach activities.

One of the focus questions asked during the public input meetings was: "Are there barriers to the process of referring infants and toddlers to the Early Intervention (EI) system, or in obtaining evaluations?" The concerns identified during these meetings were generally consistent with those identified by the State's Steering Committee in the self-assessment. Concerns stated during the public input meetings included lack of general public awareness materials in a variety of languages, formats, and locations; lack of culturally sensitive practices, particularly in rural areas; and a failure of primary referral sources, especially physicians, to refer children to the State's early intervention system in a timely manner.

Based on information from the self-assessment completed by the Steering Committee, the public input sessions, monitoring reports and the annual report, OSEP determined that additional data should be collected during the Validation Data Collection week regarding the following

concerns/issues: (1) children not being served due to delays in referrals by primary referral sources; (2) lack of information designed for families to learn about early intervention services; (3) child find and public awareness activities not reaching all primary referral sources; and (4) insufficient culturally-competent public awareness materials.

To investigate these child find and public awareness issues, OSEP collected data from parents, service providers, case managers, local programs, and interagency collaborators and from central office personnel throughout Maryland. OSEP reviewed and analyzed the data and identified the following strength and suggested areas for improvement.

A. AREA OF STRENGTH

Interagency Collaborative Efforts

Linkages with primary referral sources reflect MSDE's initiatives to encourage and maximize collaborative efforts to identify, refer, and evaluate children who may be eligible for early intervention services. Successful collaborative efforts noted by OSEP included the following: a statewide effort to implement newborn hearing screening that went into effect on July 1, 2000; and efforts to translate not only parents rights into Spanish, but also to provide other information in Spanish and provide an interpreter for oral explanations. The outreach effort to the Orthodox Jewish community may serve as a model program to address outreach to underrepresented groups in other areas of the State where service to underrepresented groups continues to be a concern.

Statewide collaborative outreach efforts have also resulted in the development and implementation of public awareness campaigns to the general public, to the medical community and in rural areas. The majority of referrals between the period of December 1997 and December 1998 were from parents, according to the State's self-assessment, local administrators and parents. Referrals from Neonatal Intensive Care Units, primary medical professionals and university medical centers have shown a steady increase, representing 25% of the referrals during that same time period. Some innovative child find strategies have included: (1) conducting evaluations in the Neonatal Intensive Care Unit in hospitals; (2) placing service coordinators on-site in hospitals to dialogue with medical personnel and families; and (3) conducting information sessions with physicians, psychiatrists, geneticists and audiologists regarding the components of the early intervention program and the referral process. MSDE also makes presentations to all first year pediatricians. The scheduled presentations are a part of the pediatrician "grand rounds", and the early intervention staff provide information on the Denver Developmental Screening Test, what occurs on home visits, and how to make referrals. These successful collaborative child find and public awareness efforts were presented at a national conference in December 1999.

B. SUGGESTIONS FOR IMPROVED RESULTS FOR INFANTS, TODDLERS, AND THEIR FAMILIES

1. Development of a Mechanism to Keep Primary Referral Sources, Particularly Health Maintenance Organizations, Informed of the Early Intervention System

Local interagency members and service providers across the State informed OSEP that on-going education and physician awareness is a challenge that impacts the provision of timely child find and referral. There are a large number of physicians in the northern and central areas of the State. A physician in one area of the State told OSEP that there is significant turnover among physicians, particularly in the Health Maintenance Organizations, that results in families being served by physicians who may not have heard about the early intervention program. Health Maintenance Organizations provide on-going pediatric and preventive care to a significant number of Part C eligible children and their families in the State. Therefore, it is important that there in a mechanism to keep physicians across the State informed of Part C services and aware of the referral process.

Each early intervention system must include a public awareness program that focuses on the early identification of children who are eligible to receive early intervention services under Part C. This requires the lead agency to prepare and disseminate to all primary referral sources, especially hospitals and physicians, materials for parents on the availability of early intervention services. The public awareness program must provide for informing the public about the early intervention program, the child find system, how to make referrals and how to gain access to evaluations and other early intervention services. See 34 CFR §303.320. The State must also ensure that the child find system includes procedures for use by primary referral sources for referring a child to the appropriate public agency within the system. The procedures must provide for an effective method to make referrals by primary referral sources and to determine the extent to which primary referral sources, especially hospitals and physicians, disseminate the information prepared by the lead agency, on the availability of early intervention services to parents of infants and toddlers with disabilities. 34 CFR §303.321(d). Consistent with 34 CFR §303.1(d), Part C funds should be used to ensure that State and local agencies and service providers have the capacity to identify, evaluate and meet the needs of historically underrepresented populations, particularly minority and low-income families in the inner-city and rural areas.

2. Outreach and Referral Strategies to Ensure Access by Underrepresented Populations

OSEP identified that there are some unique challenges associated with the implementation of child find and public awareness activities across the State: (1) capacity to assist local programs to respond to the growing diverse needs of underrepresented populations; (2) lack of culturally appropriate materials and resources; (3) the constant change and turnover in personnel in some areas and the need for an effective mechanism to keep them informed (specifically physicians); and (4) personnel shortages.

MSDE compiles data submitted annually from local participating programs and disseminates it to local administrators and interagency collaborators to assist with the development of strategies to address identified child find issues and other areas of concern related to underrepresented groups. The data elements include child find indicators such as age of referral, source of referral, ethnicity, primary and secondary diagnosis, developmental delay status and the results of evaluations performed. However, local administrators stated that they do not have the resources

or the personnel to adequately analyze the data and develop intervention strategies or materials in response to the trends that may be indicated by the data.

Although MSDE submitted assurances, as part of the Federal Part C application for fiscal year 1999 funds, that the State has adopted policies and procedures to ensure that traditionally underserved groups have access to culturally competent services within their local geographical areas, it does not appear that primary referral sources and public agencies have the necessary resources to identify, refer and evaluate children from underrepresented groups in a timely manner. In addition, it does not appear that MSDE's policies and practices ensure that traditionally underserved groups have access to culturally competent services within their local geographical areas. 34 CFR §303.128.

MSDE's self-assessment also indicates the need for comprehensive public awareness strategies directed to underserved populations, such as Amish, migrant, rural, homeless, new immigrants, and families where English is not the primary language. Local administrators, providers, and service coordinators across the State told OSEP that technical assistance was needed to develop appropriate culturally-sensitive strategies to target the increased populations of Hispanic, other non-English speakers, the deaf community, and those residing in rural areas.

Families in rural areas reported that they have not seen any resource materials in other languages in their community and the information they did receive contained varying messages; thus, they were often not sure how to access early intervention services. Local administrators in three areas reported that they did not receive bilingual materials from the State in a timely manner in assist them to adequately reach out and inform speakers of other languages. These administrators told OSEP that as a result, underrepresented populations may not have the necessary information in a language or format that assures timely referrals and provide the necessary support to identify child and family needs.

MSDE may want to collaborate with institutions of higher education and local communities to identify culturally-appropriate strategies to ensure the availability and access to resources necessary to identify and refer children from underrepresented populations in a timely manner.

III. PART C: EARLY INTERVENTION SERVICES IN NATURAL ENVIRONMENTS

In creating the Part C legislation, Congress recognized the urgent need to ensure that all infants and toddlers with disabilities and their families receive early intervention services according to their individual needs. Three of the principles on which Part C was enacted include: (1) enhancing the child's developmental potential, (2) enhancing the capacity of families to meet the needs of their infant or toddler with disabilities, and (3) improving and expanding existing early intervention services being provided to children with disabilities and their families.

To assist families in this process, Congress also requires that each family be provided with a service coordinator, to act as a single point of contact for the family. The service coordinator assures the rights of children and families are provided, arranges for assessments and IFSP meetings, and facilitates the provision of needed services. The service coordinator coordinates required early intervention services, as well as medical and other services the child and the child's family may need. With a single point of contact, families are relieved of the burden of searching for essential services, negotiating with multiple agencies and trying to coordinate their own service needs.

Part C requires the development and implementation of an IFSP for each eligible child. The evaluation, assessment, and IFSP process is designed to ensure that appropriate evaluation and assessments of the unique needs of the child and of the family, related to the enhancing the development of their child, are conducted in a timely manner. Parents are active members of the IFSP multidisciplinary team. The team must take into consideration all the information gleaned from the evaluation and child and family assessments, in determining the appropriate services needed to meet the needs.

The IFSP must also include a statement of the natural environments in which early intervention services will be provided for the child. Children with disabilities should receive services in community settings and places where normally developing children would be found, so that they will not be denied opportunities that all children have - to be included in all aspects of our society. In 1991, Congress required that early intervention services be provided in natural environments. This requirement was further reinforced by the addition of a new requirement in 1997 that early intervention can occur in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment. In the event that early intervention cannot be satisfactorily achieved in a natural environment, the IFSP must include a justification of the extent, if any, to which the services will not be provided in a natural environment.

Validation Planning and Data Collection

The State's Part C self-assessment identified several areas as having acceptable progress. These areas include: levels of support provided to families through service coordination activities; incentives to enhance innovative service delivery options; and program evaluation activities to provide data to facilitate decision making. The State's self-assessment identified the following aspects of the early intervention system as needing improvement: procedures to ensure timely

evaluations; ongoing training for IFSP teams to facilitate the team decision making process for individualized decisions; and innovative strategies to recruit and retain personnel, especially bilingual personnel.

Focus questions were also asked during the public input meetings. These questions were, “Do all infants and toddlers with disabilities and their families receive all the services they need, including service coordination,” and “Where do children receive their services (community settings, day care, homes, libraries)?” The following issues and concerns were identified at the public input meetings: guidance and training is needed to facilitate the IFSP team’s decision making process in determining the location for services and documenting the justification when services cannot be provided in the natural environment. Additionally, other concerns identified were the need for continuous services during the summer months, and clarity and consistency in the interpretation of policies and procedures across the State.

From the public input meetings and other information, it was determined that additional data should be collected during the Validation Data Collection week in the following areas: (1) the evaluation process; (2) provision of services; (3) the process for identifying natural environments; and (4) ensuring the provision of procedural safeguards.

To investigate these issues, OSEP collected data from local programs and providers, parents, service providers, service coordinators, interagency collaborators and from central office staff personnel. OSEP reviewed and analyzed the data and identified the following areas of non-compliance and suggested areas for improvement.

A. AREAS OF NONCOMPLIANCE

1. Failure to Provide Evaluations in all Developmental Areas, and Failure to Document Information on IFSPs

Each State’s child find system must include the performance of a timely, comprehensive, multidisciplinary evaluation for each referred child. The evaluation must be conducted by personnel trained to utilize appropriate methods and procedures, and must include an evaluation of the child’s level of functioning in each developmental area as defined in 34 CFR §303.322(c), including physical development, which includes hearing and vision. The results of the child’s assessment must be utilized in the development of the IFSP (§303.342(c)) and documented on the IFSP (34 CFR §303.344).

OSEP found that MSDE has not ensured that evaluations and assessments are performed in all required areas by personnel trained to utilize appropriate methods and procedures, and that for children for whom the State has pertinent evaluation results from other sources, the information is included on the child’s IFSP.

OSEP reviewed 30 IFSPs from the six regions visited and determined that none of the IFSPs contained the required information on the child’s physical status in the areas of vision and hearing. Twelve records did not contain any information regarding the individual child’s present level of functioning in vision or hearing, and the remaining eighteen records indicated “no

concern” in those areas, as identified by the family. While the information obtained from families through an interview or other mechanism as part of the assessment process can be considered to determine needed services, an assessment to determine the individual child’s level of functioning, needs and appropriate services to meet those needs must be conducted by personnel trained to utilize appropriate methods and procedures. 34 CFR §303.322.

In addition, OSEP reviewed pertinent records from some of the same IFSPs related to each child’s medical history that indicated the status of the child’s vision and hearing as determined by a physician. However, the information regarding the results of hearing and vision assessment was not documented on the IFSP. Local administrators, service coordinators and multidisciplinary evaluation team members in one area reported that they were not sure how to use information from the child’s medical history to determine the present status of the child’s functioning in all developmental areas. MSDE must ensure that there are effective procedures in place to ensure that the evaluation and assessment process includes procedures to utilize and incorporate all pertinent information regarding the child’s health status and is incorporated into the IFSP consistent with the requirements in 34 CFR §§303.322 and 303.344.

2. Lack of Continuous Services, and Failure to Provide Parent Rights when Services Change

Federal regulations specify that early intervention services are services designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child’s development and must be specified on an IFSP. 34 CFR §303.12. Early intervention providers may not interrupt, modify or otherwise change early intervention services for reasons unrelated to the child’s needs, such as service availability or changes in providers’ schedules. The IFSP must include specific information about the frequency, intensity, projected initiation dates and projected duration of services. See 34 CFR §303.344(d) and (f). This information must be based on an evaluation of child and family needs. §303.322(c).

MSDE has not ensured that early intervention services designed to meet the developmental needs of eligible children are provided in accordance with the child’s IFSP, including the specification of frequency, intensity and duration of services during the summer months. Services are modified, reduced or not provided at all for eligible children in Maryland during the summer, without being justified on the child’s IFSP based upon the unique needs of the child and family.

Parents and service coordinators across the State informed OSEP that due to lack of staff during the summer months (providers employed by school districts have ten month contracts) early intervention services are not available during the summer months to provide uninterrupted early intervention services.

Parents across the four regions told OSEP that services were routinely interrupted, modified, reduced or not provided at all during the summer. Parents and service providers in four regions reported that a letter from the early intervention program, requiring a response by a certain date, was mailed to them in the spring of each year. The letter informed them that there would be a change in provision of services for the summer months. Parents report that the change was a reduction in the frequency of service, or a different provider or location of service. They further

stated that if they agreed to the specified change in service then they would receive the service. If they did not agree with the proposed change, the child would not receive any services during the summer. Parents told OSEP that if they disagreed with the change recommended by the early intervention program, they had to be assertive in order to continue the appropriate early intervention services. Parents also reported if they did not respond to the letter from the provider agency in a timely manner, the child would not receive services.

Families in three regions reported that they felt pressured and intimidated to sign consent forms for these changes in services. Parents also told OSEP that although they received the letter stating that services would be reduced for the summer months, they were not given the opportunity to file a complaint. They also stated that they were unaware of the complaint procedures and that parent rights information was not understandable.

A public agency may revise an IFPS only in a manner consistent with the requirements of 34 CFR §§303.342 and 303.343. Each lead agency is responsible for establishing or adopting procedural safeguards that meet the requirements under 34 CFR §303.400. MSDE must ensure that written prior notice is given to the parents of a child eligible under Part C a reasonable time before a public agency or service provider proposes to change the provision of appropriate early intervention service to the child and the child's family. 34 CFR §303.403(a). (A public agency must also provide such notice to parents when it proposes, or refuses, to initiate or change the identification, evaluation, placement or services.) The notice must be in sufficient detail to inform the parents about the action that is being proposed or refused, the reasons for taking the action, and all procedural safeguards that are available under §§303.401-303.460 and the State complaint procedures under §§ 303.510- 303.512, including a description of how to file a complaint and the timelines under those procedures. 34 CFR §303.403(b).

MSDE has not ensured that local providers adequately notify parents, in writing, regarding a proposal to discontinue, decrease or change the type of service or location of service listed on the IFSP during the summer months in accordance with Federal requirements.

Families, service coordinators and local providers across the State told OSEP that changes in the provision of services during summer months occur without a review process consistent with 34 CFR §§303.342 and 303.343, without appropriate prior notice, without an explanation of procedural safeguards, and without parental consent to the proposed changes.

MSDE must ensure that services on an IFSP are not changed unless there is an IFSP review held by the IFSP team to identify the needs of the child and the needed services, and unless parent rights are ensured. MSDE must also ensure that a change in service on the IFSP is not due to staff shortages.

3. Failure to Comply with Natural Environment Requirements

(a) Lack of Effective IFSP Procedures and Decision Making Process Regarding Natural Environments

The determination of early intervention services for a child, including the location of those services, must be based on the needs of the child and family. To the maximum extent appropriate to the needs of the child, services must be provided in natural environments, including the home and community settings in which children without disabilities participate. 34 CFR §303.12(b). The natural environments where early intervention will be provided must be identified on the IFSP, and if early intervention cannot be effectively achieved in natural environments, the IFSP must contain a statement of the justification for not providing the early intervention service in the natural environment. 34 CFR §§303.167(c), 303.344(d)(1)(ii).

MSDE has not ensured that the participants at the IFSP meeting to develop the IFSP make an individualized determinations regarding services in natural environments, or that the justification required when services are not provided in a natural environment is documented on the IFSP.

Parents across the State told OSEP that it was routine practice for the IFSP team to determine that early intervention services be provided in the home at the initial IFSP meeting. However, at subsequent IFSP periodic reviews when the child turned two years of age or if the parent expressed the need for the child to be with other children, the IFSP team routinely designated that the needed services be provided in a center-based program serving only children with disabilities. However, these later IFSPs did not include a justification for not providing the service in a natural environment.

Service coordinators and providers in three regions told OSEP that frequently the decision to change the location of service was due to personnel shortages. OSEP was told by service providers in several areas of the State visited that regardless of the outcomes indicated by the child and family assessment data and specified in the IFSP, families are required to have a “legitimate” reason why services should be provided in the home or other setting rather than in the center. Parents across the State told OSEP that they were required to come to the school or center based program in order to receive early intervention services, sometimes driving as far as 60 miles. Families reported that providers advised them to come to the center because equipment was available there that was not available in the home. Service coordinators and providers told OSEP that these centers were not places where children without disabilities would frequent. OSEP reviewed 30 IFSPs and determined that they did not contain the required justification to validate the provision of services in these center-based settings.

Service coordinators, providers and local administrators across the State reported that they needed training to adequately determine the location for services, based on the outcomes of the evaluation and assessment data. They also reported that the State did not provide adequate training and guidance to IFSP teams to determine the natural environments for each child and to document the justification on the IFSP, if warranted. MSDE staff told OSEP that, as a result of the change in lead agency, the State has just recently begun to provide training to address the IFSP decision making process. State staff reported that as part of MSDE’s revised monitoring procedures it would be evaluating the outcome of its training efforts to determine if there is an increase in providing services in natural environments.

b) IFSP Documents and State Guidance Inconsistent with Federal Requirements

MSDE mandates the use of a Statewide IFSP form and recommends a protocol to be implemented by IFSP teams to assist them in determining natural environments. Confusion regarding this form may have contributed to inappropriate decisions regarding the settings in which early intervention services are provided. MSDE's IFSP guidance document specifies that the IFSP team: (1) describe any circumstance which may prevent services from being provided in settings "preferred" by the family and (2) identify what settings for early intervention services would the family "like to discuss." Neither the IFSP document nor the State protocol specifies or directs the IFSP team to determine the natural environments for a child, or to record a justification for services not in a natural environment. Although the parent is a critical member of the IFSP team, decisions must be made by the IFSP team based on the needs of the child, and not solely on family preference.

In 20 IFSPs that OSEP reviewed, the identification of "preferred or liked" settings in the IFSP was ultimately where early intervention services were provided and there was no reference to appropriateness of the setting based on assessment data or other sources to clarify why the setting was chosen. OSEP's review of these IFSPs and other directives from the State for completion of the IFSP document also determined that these directives have the potential to limit the IFSP team's discussion to those settings "preferred or liked" by the family instead of engaging in a team discussion of the needs of the child and natural environment options.

B. SUGGESTIONS FOR IMPROVED RESULTS FOR INFANTS, TODDLERS, AND THEIR FAMILIES

1. Guidance Regarding Religious Facilities

Based on changes to Federal law regarding the provision of services in religious facilities, MSDE revised its State policy to allow MSDE employees to provide services in religious settings with certain restrictions. However, local administrators in two regions told OSEP that they were uncertain about the requirements related to the provision of service in religious settings. They stated that the guidance they received from the State was confusing, therefore, they did not consider a religious facility an option in determining the location of early intervention services. OSEP reviewed MSDE's policy and determined that the existing policy was based on a prior law that has been rescinded by the State. MSDE State staff informed OSEP that this policy was being revised, but that appropriate guidance had not yet been provided to all participating early intervention programs and agencies. MSDE should ensure that all jurisdictions are informed of the revised State policy including any restrictions, and ensure that all providers adhere to the current policies and procedures.

2. Procedures to Ensure Adequate Bilingual Staff to Ensure the Provision of Services

Local administrators in three areas told OSEP that there is a need for additional bilingual staff to reach out to underrepresented groups at the point of referral or entry into the early intervention system. Local administrators reported that some communities rely on the primary referral source to refer non-English speaking families and to provide the necessary supports to facilitate access to early intervention system. Service providers in three areas reported that while bilingual staff are available to engage families in the intake process, they lack the necessary bilingual staff

resources to ensure timely evaluations and assessments of non-English speaking families, thus evaluations are often delayed and IFSPs to determine needed services are not held within the 45 day time line.

Service coordinators and providers in one jurisdiction told OSEP that they rely on volunteers to interpret evaluations and assist with the ongoing provision of services to families who do not speak English. Service providers and coordinators in this region reported that if the volunteer or staff translator is absent or on vacation there is no mechanism in place to ensure that families are meaningfully involved in the implementation of services, or on some occasions, services are discontinued if the interpreter is unavailable.

MSDE may want to explore with institutions of higher education and other resources to develop innovative strategies and activities to train existing personnel to work effectively with bilingual families. MSDE and the State Interagency Coordination Council may want to explore exemplary practices for the recruitment and retention of qualified personnel, to ensure that families whose native language is not English have access to the information necessary for them to participate fully in the development and implementation of the IFSP.

3. Effective Procedures to Ensure Prior Notice and Parental Consent in the Native Language

Each State gives parents written prior notice a reasonable time before proposing, or refusing to initiate or make changes on the IFSP. The State must ensure that the parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication. 34 CFR §303.401(a)(1). Written prior notice must be provided in the native language of the parents, unless it is clearly not feasible to do so. 34 CFR §303.403(c). IFSP meetings must be conducted in the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so. 34 CFR §303.342(d)(1). The contents of the IFSP as delineated in 34 CFR §303.344 must be fully explained to the parents and informed written consent from the parents must be obtained prior to the provision of services described in the plan. 34 CFR §303.342(e). In order to consent, the parent must understand and agree in writing to the carrying out of the activity. 34 CFR §303.401(a).

MSDE may want to review with participating agencies current IFSP procedures to assure that parents are afforded their procedural safeguards related to prior notice, specifically the native language requirements.

OSEP reviewed four IFSPs of non-English speaking families in two of the regions visited and determined that the IFSP meeting was not in their native language. OSEP's review also determined that the consent forms signed by these non-English speaking parents were written in English and not in the parents' native language. Service providers in three regions reported that some Spanish-speaking families indicate that they would prefer that they be informed in English and that written information be given in English rather than Spanish. A local administrator and parent in one region told OSEP that Spanish-speaking families preferred to have information in

English, even though Spanish was indicated on the IFSP as being the native language, because information written in English assists them to understand English better.

MSDE may want to work with the State Interagency Coordinating Council to devise a process to translate consent and prior notice forms in both English and Spanish, for dissemination to all participating agencies and programs in the early intervention system, to ensure parents' rights.

IV. PART C: FAMILY-CENTERED SYSTEM OF SERVICES

Research has shown that improved outcomes for young children are most likely to occur when services are based on the premise that parents or primary caregivers are the most important factors influencing a child's development. Family-centered practices as those in which families are involved in all aspects of the decision-making, families' culture and values are respected, and families are provided with accurate and sufficient information to be able to make informed decisions. A family-centered approach keeps the focus on the developmental needs of the child, while including family concerns and needs in the decision-making process. Family-centered practices include establishing trust and rapport with families, and helping families develop skills to best meet their child's needs.

Parents and other family members are recognized as the linchpins of Part C. As such, States must include parents as an integral part of decision-making and service provision, from assessments through development of the IFSP, to transition activities before their child turns three. Parents bring a wealth of knowledge about their own child and family's abilities and dreams for their future, as well as an understanding of the community in which they live.

In 1986, Part C of the IDEA was recognized as the first piece of Federal legislation to specifically focus attention on the needs of the family related to enhancing the development of children with disabilities. In enacting Part C, Congress acknowledged the need to support families and enhance their capacity to meet the needs of their infants and toddlers with disabilities. On the cutting edge of education legislation, Part C challenged systems of care to focus on the family as the unit of services, rather than the child. Viewing the child in the context of her/his family and the family in the context of their community, Congress created certain challenges for States as they designed and implemented a family-centered system of services.

Validation Planning and Data Collection

The State's self-assessment identified as exemplary the diverse strategies and opportunities to solicit and maintain family involvement throughout the eligibility of the child. Components identified as having acceptable progress were: the development and dissemination of family guides in three languages; family-centered public awareness announcements featured on public television; a statewide Family Support Network to provide ongoing training and mentoring; and varying levels of parent support and involvement at both the local and State level. The self-assessment identified the following areas needing improvement: targeting culturally sensitive strategies to develop and disseminate appropriate materials; facilitating access to the central directory; reviewing and modifying interagency agreements to continue to strengthen the support for family-centered initiatives.

The following focus questions were asked during the public input process: "How are families included and supported in the process of developing the IFSP, and in making decisions about their child's services?" and, "What family support services are available in your community?"

Based on the information collected from the self-assessment, public input session and State documents, the following concerns were identified to be investigated during the Validation Data

collection week: (1) an effective process to assess and link the identification of family concerns, needs and priorities with appropriate services; and (2) strategies to strengthen and to ensure meaningful parent participation throughout the child's eligibility in the early intervention system. To investigate these issues, OSEP collected data from local programs and providers, parents, service providers, case managers, interagency collaborators and state staff personnel. OSEP reviewed and analyzed the data and identified the following strengths, area of non-compliance, and suggestion for improvement.

A. AREAS OF STRENGTH

1. The Family Support Network

The Family Support Network provides a vehicle for ongoing training, outreach and support to families. Some of the innovative activities conducted have included an annual Family Focused conference that brings together the expertise of professionals, paraprofessionals and parents. This annual forum affords service providers the opportunity to increase their sensitivity to the needs of diverse families and helps them become aware of, and understand, the concerns and obstacles families face when a child with a disability is part of the family. Additionally this conference allows parents to gain a better understanding of how they can play a more participatory role in the early intervention system and help direct their child's early intervention program. Early in the State's implementation of IDEA, Maryland provided additional funds to each jurisdiction to support the hiring of a family support coordinator who would implement family support activities. One of the qualifications was that coordinators must be a parent of a child with a disability and thus be more likely to be able to relate to other families with children with disabilities. At the State level, the Family Information Specialist and Family Support Services Coordinator facilitate the implementation of the Family Support Network throughout the State and ensure the implementation of family centered practice.

2. Parent Involvement in Policy Development

Parents are actively involved in policy development and the decision making process through participation in the State Interagency Coordinating Council. Thirty-six percent (36%) of the State Interagency Coordinating Council members are parents, and a parent serves as the co-chairperson. Several of the Local Interagency Coordinating Councils and Local Management Boards have a strong parent representation. These mechanisms afford families the opportunity to advise MSDE on the effectiveness of policies, procedures and their impact on the provision of services to children and families.

B. AREA OF NONCOMPLIANCE

Lack of Effective Strategies to Ensure Opportunity for Family Assessment

Each State's system must include the performance of a timely comprehensive, multidisciplinary evaluation of each child, birth through age two, referred for evaluation and a family directed assessment of the needs of each child's family to appropriately assist in the development of the child. 34 CFR §303.322. The family assessment, which is voluntary and family-directed,

identifies the resources, priorities and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their child. 34 CFR §303.322(d). In addition, with the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child. 34 CFR §303.344(b).

OSEP finds that MSDE has not met the requirements for addressing family needs in the assessment process and on the IFSP.

Service providers and service coordinators across the State informed OSEP that, due to their very large caseloads, they were not able to: (1) identify as part of the assessment, the resources, priorities and concerns of the family and the supports and services necessary to enhance the family's capacity to meet their child's developmental needs; or (2) include a statement in the IFSP of the family's resources, priorities, and concerns related to enhancing the development of the child.

OSEP reviewed a total of 30 IFSPs from the six jurisdictions visited and determined that the IFSPs did not contain any family information relating to enhancing the family's capacity to meet the developmental needs of their child. The review of the early intervention record did reveal that sometimes there was a family or child assessment conducted by a referring or another agency prior to the child being found eligible for Part C services, however, this information was not utilized in the development of the IFSP or to determine the family goals and outcomes necessary to support the developmental needs of the child.

MSDE must ensure that appropriate procedures are in place so that the service coordinator or other individual designated by the public agency has access to necessary family assessment information and considers all pertinent family assessment information in the development of the IFSP.

C. SUGGESTION FOR IMPROVED RESULTS FOR INFANTS, TODDLERS AND THEIR FAMILIES

Provisions to Enhance Families' Access to Training and Educational Opportunities

MSDE should ensure that the necessary supports and services are in place to enhance family access and participation in training and other education opportunities offered at the local and State level, particularly for underrepresented groups, deaf, non-English, rural and those with low literacy skills. In interviews with OSEP some families reported that while they do receive notices regarding the various training and workshop opportunities, they may not attend because they are not able to determine which workshops, seminars or training would be most applicable to address the present developmental needs of their child and family.

MSDE may consider collaborating with the Family Support Network and the State Interagency Coordinating Council to identify strategies that could be employed either by the members of the Family Support Network, service coordinators or other entities to assist families in making informed decisions so that they will attend training and other opportunities.

V. PART C: EARLY CHILDHOOD TRANSITION

Congress included provisions to assure that preschool or other appropriate services would be provided to eligible children leaving early intervention at age three. Transition is a multifaceted process to prepare the child and the child's family to leave early intervention services. Congress recognized the importance of coordination and cooperation between the educational agency and the early intervention system by requiring that a specific set of activities occur as part of a transition plan. Transition activities typically include: (1) identification of steps to be taken to prepare the child for changes in service delivery and to help the child adjust to a new setting; (2) preparation of the family (i.e., discussions, training, visitations); and (3) determination of other programs and services for which a child might be eligible. Transition planning for children who may be eligible for Part B preschool services must include scheduling a meeting, with approval of the family, with the lead agency, the educational agency and the family, at least 90 days (with parental permission up to six months) prior to the child's third birthday. Transition of children who are not eligible for special education also includes convening a meeting to assist families in obtaining other appropriate community-based services. For all Part C children, States must review the child's program options for the period from the child's third birthday through the remainder of the school year and must establish a transition plan.

Validation Planning and Data Collection

MSDE's self-assessment in the area of transition from early intervention services to special education services and other community services identified several areas of strengths. These areas include training opportunities for parents and professionals, statewide conferences, and demonstration models. Two examples of these promising practices are the Understanding Special Education conference and joint transition training for Parts C and B providers. Areas identified as needing improvement were training individuals to provide transition planning, enhancing community-based opportunities for children who do not qualify for Part B preschool, and developing the transition plan.

One of the focus questions asked during the public input meetings was, "By the child's third birthday, does transition planning result in the timely provision of needed supports and services?" Comments received during the public input meetings indicated that transition activities do not occur in a timely manner, transition plans are not developed 90 days before the child's third birthday, transition plans are not implemented as developed, and children not eligible for Part B services were not transitioned into other appropriate services.

Based on the information collected during validation planning, the following areas were identified for further data collection: timeliness of transition planning; development of transition plans; and the timeliness of the transition meeting.

To investigate these issues, OSEP collected data from local programs and providers, parents, service providers, case managers, local programs, interagency collaborators and from central office staff personnel. OSEP reviewed and analyzed the data and identified the following areas of strength and area of noncompliance.

A. AREAS OF STRENGTH**1. Coordination of Financial Resources between Part C and Part B to Promote Transition Activities**

MSDE combined preschool funds and Part C funds to support the position of a Family Support Coordinator to serve the birth-to-five population in various counties. This strategy allows families who transition from Part C to Part B to be able to maintain the supports and services of a service coordinator to assist the transition process from early intervention services to Part B and to access timely information and needed resources throughout the preschool years. Several counties in the State have implemented this strategy to support a coordinator to assist families after they leave the Part C program to become familiar with the new preschool environment. In addition, MSDE awarded Family Support Network expansion grants to 9 of 24 jurisdictions to develop training and materials to inform and train families regarding the transition process. This process has the potential to provide the State with valuable data regarding the effectiveness of the transition process and in identifying areas in need of improvement.

2. Transition Process Enhanced Through the Use of Developmental Delay Category

MSDE has defined and adopted the term “developmental delay” for use in determining a child’s eligibility for special education services under Part B. A number of local school districts across the state of Maryland have elected to use the developmental delay category as a categorical option to establish eligibility for preschool services under Part B. MSDE State staff told OSEP staff that the use of the developmental delay category appears to enhance coordination efforts between the Part C and Part B programs. In addition, anecdotal data included in the State’s self-assessment suggests that in local school districts that use the developmental delay category it appears that the transition process is smoother and more effective for children and their families.

B. AREA OF NONCOMPLIANCE**Transition Meeting Not Held within 90 Days**

Each State’s application must include a description of the policies and procedure to be used to ensure a smooth transition for children receiving early intervention services under Part C. For a child who may be eligible for preschool services under Part B of the Act, with the approval of the family of the child, the lead agency must convene a conference among the lead agency, the family, and the local educational agency at least 90 days before the child is eligible for the preschool services. 34 CFR §303.148.

MSDE has not ensured that, with the family’s approval, a transition meeting with the appropriate personnel occurs at least ninety days before a child may be eligible for preschool services under Part B upon on their third birthday.

Service providers in two regions told OSEP that the transition process was more difficult to implement in an early intervention program administered by a health agency rather than a local education agency. As a result the 90 day transition meeting may be delayed because a

representative from the local school district may not be available to attend. Service providers in three of the six regions visited told OSEP that there were different interpretations of State policies and procedures regarding the transition process, particularly regarding timelines and placement options. Therefore, the 90 day meeting may not occur until after the child's third birthday. Service providers across the State reported that particularly during the period from April through September each year, transition meetings are not held within 90 days before the child's third birthday, due to lack of available Part B staff during the spring and summer months to conduct evaluations, determine eligibility and to write IEPs. Service coordinators and administrators across the state told OSEP that most Part B staff on ten month contracts staff have to be rehired (if funds are available) to carry out transition activities during the summer months. Since the contract approval process may take a couple of weeks, the lack of available staff often results in delays in conducting the transition meeting and in some instances may not occur until the after the child's third birthday.

MSDE way want to work with the State Interagency Coordinating Council to devise strategies to ensure that the transition process is not impeded as a result of contract procedures and personnel shortages.

VI. PART B: PARENT INVOLVEMENT

A purpose of the IDEA Amendments of 1997 is to expand and promote opportunities for parents and school personnel to work in new partnerships at the State and local levels. Parents must now have an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of their child, and the provision of a free appropriate public education to their child. Parental involvement has long been recognized as an important indicator of a school's success and parent involvement has positive effects on children's attitudes and social behavior. Partnerships positively impact achievement, improve parents' attitudes toward the school, and benefit school personnel as well.

Validation Planning

Previous OSEP Monitoring - Previous OSEP monitoring visits did not include parent involvement as a separate section in monitoring reports. When OSEP redesigned its monitoring process, parent involvement became a focus of the continuous improvement monitoring process.

State Self-Assessment - Issues identified in the State Self-Assessment included the following: (a) there is a need for the development of a comprehensive data collection system to provide better information to parents, administrators and advocates; and (b) training and information materials designed for use by parents, should be written and presented in a non-jargon, user-friendly manner.

Public Forums - As part of the OSEP Validation Planning phase, parents made the following comments at the public input meetings: (a) parents are afraid to raise issues in school and they don't feel that the staff is receptive and may resent parents' attempts to get involved; (b) parents don't feel that they are fully informed; (c) resources are needed to thoroughly inform parents of special education processes; (d) parents feel that the due process system is too costly, especially attorney fees; (e) parents feel restricted in their access to educators in that they are required to make appointments for all visits to schools and special education IEP meetings are held only on certain weekdays; and (f) parents were not aware of IDEA transition requirements for secondary students.

Validation Data Collection

OSEP held meetings with parents of students whose files it reviewed in two local districts. OSEP elicited information regarding parent involvement in the special education decision-making process, preschool transition, secondary transition, and parent training opportunities. OSEP convened one meeting with parents of high school students. The second parent meeting brought together parents of pre-school and elementary school children with disabilities.

Both parent groups supported their districts' efforts to serve children in the least restrictive environment. The parents of elementary school students praised the teachers for their children's transition from Part C program services to Part B services. Of particular note is their stated support for the elementary school's outreach to parents of students with disabilities and the commendation they gave the county parent outreach center.

Parents said their pre-school children lacked opportunities for instruction with nondisabled peers. These parents felt a need existed for more relevant information to help regular education teachers, special education teachers, and parents understand the real meaning of the terms “least restrictive environment” and “inclusion.”

Parents of high school students made the following observations: (a) parents are not aware of the transition requirements of the IDEA Amendments of 1997 and are unaware of the opportunity to discuss transition issues during the annual IEP meeting; (b) the regular classroom environment does not have the supports and accommodations for children with disabilities; (c) regular education high school teachers are unaware of the special needs of children with disabilities; (d) regular education teachers are unable to provide the accommodations and modifications as stated in the students’ IEPs; (e) in-service training and in class support (e.g., aides in the regular education classroom) are not provided for regular education teachers; and (f) extended school year services are not available. When one of the parents identified the district’s outreach center for parents and advocates (funded in part by IDEA), none of the other parents at the meeting knew about the center and the center’s resources for parents of students with disabilities.

A. AREAS OF STRENGTH

1. Maryland Resource Centers for Families and Schools - The Resource Centers provide training activities in local school districts. MSDE increased funding for each center from \$10,000 annually to \$16,000. Each local district expanded and upgraded services at existing centers or initiated new centers. All local school districts, as well as the Maryland School for the Blind and Maryland School for the Deaf, have a Resource Center for Families and Schools.

2. Technical Assistance and Dissemination of Information - MSDE developed and disseminated comprehensive training packages for use by local school districts. Each package included information and presentation materials for use in training parents, staff, and other interested individuals.

B. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN

Training

While MSDE has developed public awareness materials to assist parents in understanding the requirements of IDEA, parents, teachers and administrators identified the lack of adequate training as a persistent problem in helping parents become full partners in the education of their children. OSEP recommends that MSDE continue to expand training for administrators, school-based staff, and parents. Training for parents should include (a) suggestions for parents when they attend IEP meetings, (b) information about parental procedural safeguards, and (c) information about transition at both the preschool and secondary levels. Additionally, it is suggested that training for administrators and teachers focus on parental due process rights, procedural safeguards and the increased role parents have following the IDEA Amendments of 1997.

VII. PART B: FREE APPROPRIATE PUBLIC EDUCATION IN THE LEAST RESTRICTIVE ENVIRONMENT

The provision of a free appropriate public education in the least restrictive environment is the foundation of IDEA. The provisions of the statute and regulations (evaluation, IEP, parent and student involvement, transition, participation in large-scale assessment, eligibility and placement decisions, service provision, etc.) exist to achieve this single purpose. It means that children with disabilities receive educational services at no cost to their parents, and that the services provided meet their unique learning needs. These services are provided, to the maximum extent appropriate, with children who do not have disabilities and, unless their IEP requires some other arrangement, in the school they would attend if they did not have a disability. Any removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The IDEA '97 Committee Reports of the Senate Committee on Labor and Human Resources and the House of Representatives Committee on Education and the Workforce emphasized that too many students with disabilities are failing courses and dropping out of school. Those Reports noted that almost twice as many children with disabilities drop out as compared to children without disabilities. They expressed a further concern about the continued inappropriate placement of children from minority backgrounds and children with limited English proficiency in special education. The Committees stated their intention that "once a child has been identified as being eligible for special education, the connection between special education and related services and the child's opportunity to experience and benefit from the general education curriculum should be strengthened. The majority of children identified as eligible for special education and related services are capable of participating in the general education curriculum to varying degrees with some adaptations and modifications. This provision is intended to ensure that children's special education and related services are in addition to and are affected by the general education curriculum, not separate from it.

Validation Planning

Previous OSEP Monitoring - OSEP's November 1995 monitoring report included findings that MSDE did not fully meet its responsibility to ensure that: (a) to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who do not have disabilities, and special classes, separate schooling or other removal of children with disabilities occurs only if the severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and (b) each child with a disability participates with children who do not have disabilities in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of that child.

Self-Assessment - The State Self-Assessment identified the following items related to the provision of appropriate special education and related services in the least restrictive environment: (a) MSDE should continue its partnership with the Office for Civil Rights regarding the over-representation of minority students with disabilities in five local school

districts (MSDE and local districts presently have written partnership agreements with the Office for Civil Rights); (b) MSDE should collect, validate and analyze accurate data related to personnel certification to develop strategies to increase the number of fully certified special education and related service providers (Note: The Maryland Teacher Staffing Report 1998-2000 given to OSEP identified critical shortages of certified special education teachers and related service personnel, and included a statement that over 10% of the special education and related service providers are not fully certified); and (c) MSDE should collect and report the number of students with disabilities who are suspended or expelled.

Public Forums - At the public forums held during the OSEP Validation Planning phase, participants at the forums identified the following issues: (a) special education and related services are not implemented as specified in IEPs; (b) related services, such as speech/language, occupational and physical therapy, are often interrupted as a result of staff changes and the school-wide scheduling of annual IEP reviews; (c) transportation rules and schedules result in children having a shortened school day; (d) there is a lack of related services personnel; (e) many programs for students with disabilities are not age-appropriate; (f) many districts lack a full continuum of placement options for students with disabilities; (g) a number of special education programs are understaffed; (h) many special educators, general educators, and related services personnel are not certified and lack the skills to provide adequate special education services; (i) behavior plans are generic in nature, or lacking; and (j) extended school year services are not available in all cases when a student needs the services to benefit from special education.

Validation Data Collection

To investigate the concerns identified by participants at the public forums during the Validation Planning phase, OSEP interviewed State personnel, parents, local program administrators and school administrators, teachers, and other service providers; and reviewed student records and State and local documents.

A. AREAS OF STRENGTH

1. Interagency Agreements to Enhance Personnel Development - MSDE signed interagency agreements with Maryland institutions of higher education to design and deliver pre-service and in-service programs related to reform-based education for general and special education teachers. Four of these agreements focused on redesigning the special education teacher education program. A fifth agreement focused on retaining new special education teachers through a mentoring program.

2. Regional Technical Assistance Network – MSDE provides technical assistance to local districts through a regional resource network system. Resource personnel provide technical assistance support to local districts. Technical assistance includes training for local districts. MSDE developed an “IDEA Tool Kit,” a package containing the IDEA Amendments of 1997 regulations with information relevant to each topical area of the regulations. Compact disc and audio-visual resources are a part of the package.

3. MSDE-Assisted Initiatives

(a) **The Learning Lab Model** - The Learning Lab Model was implemented in seven elementary schools during School Year 1998-99. The 100 students selected to participate in the model program attended kindergarten through 5th grades. A school instructional and administrative team selected students on the basis of (a) potential out-of-home school placement, (b) absenteeism, (c) high-risk behavior, and (d) low student achievement. The MSDE Division of Special Education provided funds for a behavioral assistant and the school provided space for the program. Students who participated in the Learning Lab Model demonstrated significant increases in school attendance and student achievement. Student discipline referrals and suspension rates decreased.

(b) **Promising Local Practice** - A rural district identified a need for comprehensive training in order to provide services to children with disabilities in inclusive settings. In 1999, MSDE awarded the local district a grant to encourage efforts toward inclusion. The district hired an inclusion specialist to support families and regular education teachers and to provide staff development for special education staff. Additional in-service was provided for regular education teachers on the use of modifications for students with disabilities in the regular classroom, and for regular education teachers and elementary specialists as part of the district's annual staff development program. Proven benefits of the model included: growth in social skills, increased parental expectations, positive attitude changes among non-disabled peers and adults, improved overall physical health and improved student achievement.

4. MSDE Task Force on Least Restrictive Environment - MSDE appointed a task force to recommend and initiate activities that would promote placing more students in the least restrictive environment. The State implemented changes in State regulations that (a) required districts to submit staffing plans, (b) eliminated case load maximum or minimum ratios, (c) eliminated placement of children with disabilities according to a "level of intensity," and (d) promoted in-service training at local schools.

B. AREAS OF NONCOMPLIANCE

1. Requiring that Students with Disabilities Be Removed from the Least Restrictive Environment in order to Receive Special Education Services

34 CFR §300.550 requires that each public agency ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and that separate classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or the severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

34 CFR §300.347 (a)(3) requires that each IEP include a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child (i) to advance appropriately toward attaining the annual goals; (ii) to be involved and progress in the general curriculum; and (iii) to be educated and participate with

other children with disabilities and nondisabled children in extracurricular and other nonacademic activities. 34 CFR §300.347(a)(4) requires that the IEP include an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in 34 CFR §300.347(a)(3).

As part of its review of MSDE's oversight of local districts in Maryland, OSEP reviewed MSDE monitoring reports of ten districts. Two MSDE monitoring reports were completed in 1997 and eight were completed in 1998. MSDE cited five of the ten districts for failure "to ensure that students are placed in the least restrictive environment in accordance with State and Federal regulations." MSDE also cited two of these districts for failure to ensure that each student with a disability is educated with nondisabled students to the maximum extent appropriate.

In addition to reviewing the MSDE monitoring reports for the ten districts (including two districts visited by OSEP), OSEP conducted interviews with parents, students, educators and related services personnel, and reviewed student records (all described below). Based on the results of interviews, the review of student records, MSDE monitoring reports and written documentation provided by local and State staff during the Validation Data Collection phase, OSEP determined that MSDE did not ensure that students are placed in the least restrictive environment.

In three districts, OSEP determined from a review of student records and interviews with teachers and administrators that, during the IEP meeting, a determination is made of the "intensity level" of the special education services and related services required by a student, and the "intensity level" determines whether a child with a disability will be removed from a regular education classroom. Thus, based on the level of intensity, the IEP team will remove a child from the regular education classroom without considering accommodations and modifications to permit the child to remain in the regular education classroom with the needed intensity of services. The teachers and administrators stated that placement in a regular education classroom with support services is often rejected because the "...student requires the supports and expertise of a special education teacher." In the case of six student records in which "Special Classroom" was selected for student placement neither the IEP nor any other document in the students' record explained why the child was not placed in the regular classroom, and there was no documentation in the record that there had been consideration of appropriate supplementary aids and services to promote the students' placement in less restrictive environments.

In all three districts, when OSEP asked administrators and teachers to explain how IEP teams determined students' placements, the respondents stated that the "intensity of services" determined the decision about placement in the regular or special education classroom. MSDE staff stated that there was some lack of awareness among educators regarding the State's recent policy guidance regarding the requirement to make individual placement decisions based on unique needs of the child with a disability and the State's former practice of determination of "placement levels." Further, in one of the three districts, special education teachers indicated that some students could be accommodated in a regular education class if appropriate supports and aids were available and if the role of special education teachers was not limited to teaching in separate classrooms. The teachers also believed more students would be able to succeed in the regular education classroom if the school administrative structure was more "flexible." The

teachers reported that when considering where a student receives his/her services, age sometimes plays a role, in that the younger the child, the more motivated teachers are to teach them in the regular education classroom. The teacher said that older children are more difficult to include in regular education classrooms because regular education teachers of older students lacked the skills, including classroom management skills and behavior management skills, to accommodate the “older students’ unique needs.” Related services personnel in the same district indicated that students with disabilities would be successful in the regular education classroom if the co-teaching model was permitted in the district.

In all six districts visited by OSEP, teachers, parents and administrators said a further problem preventing students with disabilities from being placed in the least restrictive environment was that regular education teachers do not understand the IEP process or their role in recommending accommodations and supports so that students with disabilities would be successful in the regular education classroom. In two of the six districts visited by OSEP, teachers and administrators reported that regular education teachers do not attend IEP meetings on a regular basis or, in all appropriate cases, provide information to the IEP team. Both teachers and administrators indicated that scheduling is a serious problem. Teachers from one district told OSEP that if they were unable to attend an IEP meeting due to a scheduling conflict, information is provided to the special education teacher to be presented at the meeting. Administrators told OSEP that participation of regular education teachers at IEP meetings is more of a problem on the secondary level than on the elementary level.

Among all districts and within the districts, OSEP found wide variability among schools and local school districts regarding the extent to which students with disabilities had access to the general curriculum. It appeared from student record reviews and OSEP interviews that, for some students, the extent to which a student with a disability would have access to the general curriculum depended solely on the site of the special education services. The placement of the student determined the student’s access to the general curriculum.

MSDE administrators informed OSEP that extensive guidance had been provided by the State to ensure that local school district personnel made placement decisions based on unique needs of the individual student with a disability. MSDE acknowledged, however, that local school district personnel continue to make some placement decisions based on “intensity of services.” MSDE said there is confusion between the terms “placement levels,” “intensity of services,” and “unique needs of a student with a disability.” In meetings between OSEP and MSDE before the 1999 monitoring visit, OSEP and MSDE determined previous State regulations describing placement levels determined how much time a student with a disability would be removed from the regular education classroom. To address this issue MSDE, prior to the 1999 OSEP visit, revised the State regulations to include various levels of intensity of services rather than “placement levels” to make clear the designation of intensity would address the amount of services, not the setting in which the services would be provided. The intent of this change was to make clear that while the State funding would in part be determined by the intensity or the amount of special education support a student would receive, placement decisions were separate from, and should not be made, based on the intensity of the service a child would receive.

2. Failure to Provide All Related Services Needed as a Part of a Free Appropriate Public Education

34 CFR §300.300 requires a State ensure that a free appropriate public education is available to all children with disabilities residing in the State and that the services and placement needed by each child with a disability to receive a free appropriate public education must be based on the child's unique needs and not on the child's disability.

34 CFR §300.347 requires the IEP for each child with a disability to include a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child. 34 CFR §300.24 defines related services as transportation and such developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

Administrators, teachers and related services personnel in two districts reported that personnel shortages exist which result in children with disabilities not receiving all the services to which they are entitled. In one of these two districts, a related services provider informed OSEP that the related services personnel had the responsibility of working with children in five schools and staffing was a problem in this district. Due to staffing problems, students do not receive any psychological counseling regardless of need. Those students in need of the counseling will receive the service outside of school (e.g. mental health agency) and the service is not written into the IEP. In the second of these two districts, two related service providers indicated delays in the provision of services to children. One therapist stated services were suspended when the therapist participated in annual review meetings and conducted reevaluations. Regarding reevaluations and annual reviews "direct instruction is impacted and is sometimes suspended." Another therapist in this same district reported that delays and interruptions in the provision of services happen "fairly often;" the therapist reschedules suspended sessions for another day during planning periods but is not always able to keep the rescheduled sessions. This related service provider reported the district is understaffed. The district needs a half-time speech therapist to ensure that there are no interruptions in services to students with disabilities. Three school-based administrators in the same district reported that there is a need for more personnel and resources to better meet the needs of the students. One administrator said there is a need for one teacher and one aide for an "Intensity V program" and one teacher is needed for an "Intensity IV program" where a substitute provides special education instruction on a temporary basis. A third administrator, based at another school, said some students would be determined to need a setting outside of the regular classroom based solely on the category of the disability. The local director of special education said additional teachers and certain related services personnel are needed because there is a district-wide shortage of special education teachers. The director added that many of the special education teachers who are teaching are on waivers working toward certification and do not have the experience of working with regular education teachers to

help make modifications or accommodations to increase the likelihood that children with disabilities would be instructed in the regular education classroom.

3. Lack of Participation in Statewide Assessments of Students Placed in Nonpublic Schools

34 CFR §300.138 requires the State to demonstrate that children with disabilities are included in general State and districtwide assessment programs with appropriate accommodations and modifications in the administration of the assessment, if necessary. As appropriate, the State and local education agency must develop guidelines for the participation of children with disabilities who cannot participate in State and districtwide assessment programs. 34 CFR §300.347(a)(5) requires that the IEP include a statement of any individual modifications in the administration of the assessment of student achievement, if needed, for a child with a disability to participate in the assessment. If the IEP team determines that the child will not participate, the IEP must contain a statement of why that assessment is not appropriate and how the child will be assessed.

All State administrators and local directors of special education interviewed by OSEP said that students with disabilities placed by the local school district in a nonpublic school did not participate in the Maryland statewide assessment program. MSDE recognized this concern during the OSEP monitoring visit and issued a memorandum to local school districts to address this finding.

C. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN

State Funding Formula - Disincentive to Return Students to Home District

34 CFR §300.130(b) states that if the State uses a funding mechanism by which it distributes State funds on the basis of the type of setting where a child is served, the funding mechanism may not result in placements that violate the local education agency's requirement to provide a continuum of alternative placements to meet the unique needs of each child with a disability.

Information identified through the Self-Assessment process indicates that MSDE should review and analyze the data on the number of students with disabilities placed in non-public schools by local school systems to determine the impact of the State funding formula on more restrictive placements. The State funding formula may contribute to the placement of students with disabilities in more restrictive environments because while the local district must pay the majority of the costs for students with disabilities served in the local district, the State reimburses the local district for approximately 80 percent of the costs when a child with a disability is in an out-of-district placement. (The local district pays the remaining 20 percent). Reimbursement for 80 percent of the costs becomes effective after the local district has paid the equivalent of 300 percent of local cost per pupil towards the placement.

Fiscal Year	Number of Students with Disabilities in Non-Public Placements	Annual Cost of Non-Public Tuition Assistance Program
FY 1997	3,341	\$50,315,143
FY 1998	3,742	\$67,990,567
FY 1999	4,080	\$72,071,070

The State of Maryland depicts a varied picture with regard to where services are provided to students who receive more than 15 hours of special education and related services per week and require a more intensive education program (Intensity V). In some instances, counties are providing special education and related services in regular schools with appropriate accommodations and modifications. In other counties, the provision of special education and related services to Intensity V students are in separate day schools. Interviews with local administrators suggested that they could provide the services, but they choose not to do so, because counties want MSDE to continue to pay 80% of the education costs.

Four local administrators in three districts informed OSEP that non-public placements are “very costly.” They said that local health departments have stopped providing mental health services and that it has been very difficult for families to access mental health services elsewhere. The administrators in one district said that access to mental health services is the primary reason why so many children in the district are in non-public placements. A building administrator in the district reported to OSEP that the funding formula provides no incentive to maintain a child in the home school because funding for the services provided outside the district does not follow the child to the in-district school which ultimately provides the services. Rather, the funds are retained at the central office.

OSEP suggests that MSDE look closely at the impact of the funding formula to determine whether the formula results in students with disabilities being placed in more restrictive environments and whether there is a need to revise either the formula or the State’s placement policies and procedures to ensure compliance with the least restrictive environment requirements of IDEA 97.

VIII. PART B: SECONDARY TRANSITION

The National Longitudinal Transition Study of Special Education Students reports that the rate of competitive employment for youth with disabilities who are out of school for three to five years was 57 per cent compared to an employment rate of 69 percent for youth in the general population. The Study identifies several factors that were associated with post-school success in obtaining employment and earning higher wages for youth with disabilities. These include completing high school, spending more time in regular education, and taking vocational education in secondary school. The Study also shows that post-school success is associated with youth who had a transition plan in high school that specifies an outcome, such as employment, as a goal. The secondary transition requirements of IDEA focus on the active involvement of students in transition planning, consideration of students' preferences and interests by the IEP team, and the reflection, in the IEP, of a coordinated set of activities within an outcome-oriented process which promotes movement from school to post-school activities.

Validation Planning

Previous OSEP Monitoring - OSEP's 1995 monitoring report included findings that MSDE did not fully meet its responsibility to require local districts to ensure that, if a purpose of the IEP meeting was the consideration of needed transition services, notice to the parents of the meeting informed the parent of that purpose, and notices that the student would be invited to attend.

Public Forums - During the Validation Planning phase, OSEP held four public forums and one focus group. Participants stated: (a) there are no supports for transition from middle school to high school and from high school to college; (b) students with disabilities at the Maryland Adult Correctional Facility do not receive transition services; (c) students with disabilities in detention centers are not identified and served; (d) transition meetings for students, ages 14 years and older, take place "on paper" in the senior year; (e) districts pay little attention to IDEA requirements for transition services; and (f) the parent has to initiate the process of transition planning, or it may not occur.

Validation Data Collection

During the Validation Data Collection phase, OSEP interviewed parents, students, teachers, administrators and outside agency representatives in seven districts. OSEP reviewed student record files and local and State policy guidance related to the provision of transition services for students ages fourteen years and older.

A. AREAS OF STRENGTH

1. Maryland Infrastructure for Transition Services – Maryland has an infrastructure to ensure the provision of effective transition services for students with disabilities. There is a transition specialist at the State level, and each local district has a transition coordinator. Materials such as *Transition Planning and Anticipated Services in the IEP Process*, an informational guide for students, families and professionals, are available. The Maryland transition specialist works with local and state interagency groups to develop effective resources

and materials, provides training upon request of the local school districts and identifies resources for local school districts. Each county has identified a contact person for transition.

2. Interagency State Plan for Transitioning Youth with Disabilities – The Interagency State Plan for Transitioning Youth with Disabilities, required by Maryland State law, is a collaborative plan developed by MSDE, the Department of Health and Mental Hygiene Developmental Disabilities Administration, the Department of Labor, Licensing and Regulation, and the Governor’s Office for Individuals with Disabilities. The plan is based on the premise that multiple State agencies play a critical role in building a seamless continuum of services that moves students from the entitlement of school-based transition services to the eligibility-based adult system. The plan provides a mechanism to identify the number of students and their anticipated unique transition services.

3. Maryland Youth Leadership Forum - The Maryland Youth Leadership Forum is a White House initiative to develop leadership skills in youth with disabilities. Successful high school candidates, selected for their leadership qualities and accomplishments, are trained to be delegates to the Forum. The group of students representing all categories of disabilities and differ in race, gender, and ethnicity, reflecting the diversity of the State’s population.

4. Nationally Recognized Model Transition Programs - The National Transition Alliance has published a directory of innovative approaches to providing transition services to youth with disabilities, *Improving Student Outcomes: Promising Practices and Programs*. Six of the twenty-seven innovative programs included in the directory were implemented in the State of Maryland. OSEP visited one of these programs, the Post Secondary Program: Learning for Independence, a program designed for students who have completed a four-year high school program and received a certificate (rather than a diploma). The program is a cooperative effort among the public schools, continuing and alternative education, career and technical education, the community college continuing education and local adult services. The program is located on community college campuses. A student’s participation in the program takes place over a period of at least two years. The first year focuses on instruction and the subsequent year(s) focuses on employment experiences. The success of the program is reflected in the percentages of students employed upon completion of the program. Approximately 90% of the students are either gainfully employed (53%) or are in worksite employment development programs (33%). Four additional districts in Maryland also operate programs on college campuses. A number of these programs have documented that it is more cost effective to provide the same program at the college campus than to serve the same students (18-21years of age) in their respective high schools.

B. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN

Involvement of Students, Parents, and Outside Agency Representatives in Transition Planning

Despite the infrastructure for transition, when OSEP reviewed the policies and procedures in two local districts monitored by both MSDE and OSEP, OSEP found that, although the policies and procedures in each district were consistent with IDEA, the policies and procedures were not

being effectively implemented for each child with a disability. In one of the districts OSEP visited, school staff reported that they did not have a clear understanding of the transition requirements, particularly IDEA requirements for students who are 14 years old. While MSDE provided training opportunities and IEPs included transition service needs, staff said they didn't understand IDEA transition requirements, including an understanding of their role and responsibilities. Middle school teachers told OSEP that transition services for middle school students, regardless of the age of the students, are the responsibility of the transition coordinator at the high school and deferred any transition planning until the students moved on to the high school level.

The transition coordinator in another district indicated that there were weaknesses in coordination and cooperation between the district and the Division of Rehabilitation. In the majority of files reviewed by OSEP in this district, there were no linkages with other agencies identified for students in one of this district's programs. OSEP found no documentation of any consideration of the need for an invitation to outside agencies that may be responsible for the implementation and provision of needed transition services. Staff indicated that although the Division of Rehabilitation has agreed through an interagency agreement to be available to students a year prior to leaving high school, the Division of Rehabilitation has had problems with timely vocational assessments and waiting lists for services and did not always send a representative when the local school district invited the agency to the meeting.

OSEP suggests MSDE examine the involvement of students, parents, and outside agency representatives in transition planning when the State monitors local school districts. OSEP also suggests that MSDE extend the State's innovative secondary transition programs to all secondary schools in the State.

IX. PART B: GENERAL SUPERVISION

IDEA assigns to State Education Agencies (SEA) responsibility for ensuring that all public agencies comply with the requirements of Part B. IDEA also requires that all educational programs for children with disabilities, including all such programs administered by any other State or local agency, are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities, and that these programs meet the educational standards of the SEA. SEA involvement and support are critical factors in the successful implementation of the provisions of IDEA at the local level. Effective general supervision promotes positive student outcomes by promoting appropriate educational services to children with disabilities, ensuring the successful and timely correction of identified deficiencies, and providing knowledge, skills and abilities necessary to carry out their assigned responsibilities to personnel who provides services to children with disabilities. The Federal law identifies several mechanisms for the SEA to use in fulfilling its general supervisory responsibilities. These include (a) monitoring public agencies to ensure that these agencies are complying with Part B requirements, (b) ensuring that public agencies correct any deficiencies, (c) implementing dispute resolution mechanisms, (d) providing technical assistance and training to teachers and administrators to ensure that they are fully informed of these responsibilities. Each State receiving assistance under Part B must ensure that a free appropriate public education is available to all children with disabilities aged 3 through 21 years residing in the State. The SEA is also required to carry out activities to ensure that teachers and administrators in all public agencies are fully informed about their responsibilities for placing students in the least restrictive environment, the monitoring IDEA requirements, and implementing remedies for denial of appropriate services.

Validation Planning

To obtain data regarding MSDE general supervision of educational programs for children with disabilities, including the effectiveness of the State monitoring system, OSEP reviewed Part B complaints, interviewed MSDE staff, reviewed State documents, convened public forum meetings, and met with the Steering Committee.

Previous Monitoring - The OSEP Monitoring Report (1995) found that MSDE did not exercise its general supervisory responsibility to ensure compliance with IDEA requirements by special education units, public school districts and private schools providing services to children with disabilities. State complaint procedures did not ensure that complaints were investigated and resolved within 60 days. Extensions to timelines were given routinely without providing a reason for the extension. OSEP also found in 1995 that the State monitoring system was ineffective in identifying noncompliance and in adopting and utilizing proper methods for the correction of deficiencies identified through the State's monitoring activities.

The Steering Committee - The State Steering Committee made the following comments for OSEP to consider during the Validation Data Collection visit: (a) MSDE needs to complete written monitoring reports within 90 days following each component of the process; (b) self-evaluation data regarding program satisfaction need to be collected and analyzed to determine technical assistance, training and program improvement needs; (c) MSDE needs to develop and

utilize enforcement standards and criteria that address persistent deficiencies of public agencies; (d) MSDE needs to meet the 60 day timeline for complaint investigation; (e) MSDE needs to develop a tracking system to ensure that activities required as a result of a complaint investigation or a due process hearing are conducted consistently and effectively; (f) MSDE needs to continue to collect and analyze the data on performance goals and indicators for use in determining the statewide training and technical assistance needs of public agencies; (g) MSDE needs to collect data from the Department of Juvenile Justice, the State's adult correctional facilities and county adult detention centers to determine the number of students with disabilities under 21 years of age who have an IEP, including those who exit high school with a Maryland High School Diploma or a Maryland High School Certificate concerning the extent to which the IEPs of students with disabilities are being implemented and the extent to which students who receive services from these agencies are fully protected under the law; (h) a system for the collection and analysis of data is needed with regard to students with disabilities in out of district placements exiting high school with a Maryland High School Diploma or a Maryland High School Certificate; and (i) data need to be collected, disaggregated, and analyzed regarding the results achieved by all students with disabilities including those students placed in non-public settings by local districts. (The results should include a comparison of all student performance on Statewide assessments as compared to students with disabilities receiving services in local school systems and students receiving services in nonpublic placements).

Public Forums - During the public input meetings additional concerns were identified by those in attendance at the meetings. Participants questioned the effectiveness of MSDE's general supervisory role in its oversight of the implementation of IDEA and the provision of a free appropriate public education in the least restrictive environment. The majority of participants stated that MSDE did not meet its responsibility related to the general supervision of the State Part B systems. Participants said MSDE exercised its supervisory responsibilities through a paperwork process and gave districts found to be noncompliant a "slap on the wrist and that "the State does not address systemic issues." Participants also identified early childhood transition and teacher training as areas of concern.

The Education Advocacy Coalition, a coalition comprised of advocacy organizations and individuals with an interest in education issues that affect students with disabilities throughout Maryland, provided OSEP with the organization's latest report (1999). The Education Advocacy Coalition addresses issues such as monitoring and enforcement of IDEA, related State and federal legislation, and revisions to federal and State special education regulations. The Education Advocacy Coalition urged OSEP to monitor concerns gathered by the Coalition through a survey of 4,000 parents. These concerns included: (a) provisions related to placement in the least restrictive environment and the provision of supplementary aids and services within the regular education classroom, (b) discipline; (c) the provision of special education services in Baltimore City; (d) the general supervisory role of MSDE; (e) restrictive placements and the role of nonpublic schools in the placement process; (f) availability of appropriate extended school year services; (g) procedures for due process hearings; and the State's management of the complaint process.

Validation Data Collection

OSEP collected information from the review of student records and State and local policies and procedures; interviewed with State personnel, local program and school administrators, teachers and other service providers, and parents; and investigated the concerns identified by the Steering Committee and public input participants during the Validation Planning phase. OSEP reviewed State structures designed to implement general supervisory responsibilities, including the State monitoring system, and the accountability of public agencies to ensure that students with disabilities are receiving a free appropriate public education in the least restrictive environment.

A. AREA OF NONCOMPLIANCE

Complaint Management System – Complaint Timelines Are Not Always Met

34 CFR §300.600 requires that the State educational agency ensure the requirements of IDEA are carried out and that each educational program for children with disabilities is under the general supervision of the State educational agency and meets the education standard of the State.

34 CFR §§300.660-300.661 require that the State educational agency adopt written procedures for resolving any complaint that meets the requirements of §300.662 including remedies for denial of appropriate services in resolving a complaint in which it has found a failure to provide appropriate services; and, that each State have minimum complaint procedures which include a time limit of 60 days after a complaint is filed under 34 CFR §300.660(a). 34 CFR §300.661(b) requires MSDE to have procedures that address time extensions, final decisions and implementation of complaint decisions. These regulations require MSDE to have procedures for effective implementation of the State's final decision, including technical assistance, negotiations, and corrective actions to achieve compliance. 34 CFR §300.661(b) requires that MSDE investigate and resolve complaints that a public agency has violated a requirement of Part B within 60 days. An extension of the time limit is permitted only if exceptional circumstances exist with respect to a particular complaint.

The OSEP 1995 Maryland Monitoring Report stated that MSDE had not exercised its general supervisory authority by adopting procedures that ensured that complaints were resolved within the regulatory 60-day timeframe. OSEP required MSDE to adopt and submit a corrective action plan that included amending State complaint management procedures to ensure that all complaints are resolved within 60 calendar days unless the timeline is extended because exceptional circumstances exist with respect to a particular complaint.

MSDE could not document that the State extends the 60-calendar day timeline only under unusual circumstances. When OSEP reviewed the MSDE Complaint Log for School Year 1998-99, complaints were not always resolved within the 60-calendar day requirement. The number of days by which the decisions exceeded 60 calendar days ranged from one to 86 days. Extensions were given in 19 of the 29 cases reviewed. Only four of the 19 complaint files included a reason for the extension. IDEA allows for extensions beyond the 60-day timeline only in exceptional circumstances. When OSEP asked MSDE why a timeline would be extended, staff said timelines would be extended due to "insufficient State staff," "summer vacation," and "winter break." The explanations do not represent exceptional circumstances with respect to a particular complaint.

OSEP found in its review of the *Overview of the MSDE Complaint Resolution Process*, that, while MSDE has addressed nearly all of the required regulatory information, MSDE procedures do not address the requirements of 34 CFR §300.661(b)(2)(ii) regarding the use of negotiations for those occasions when such negotiations may be needed.

B. SUGGESTIONS FOR IMPROVED RESULTS

1. Importance of Evaluating New Monitoring System

MSDE's monitoring system was revised and the revised system was implemented in the 1998-99 school year. The procedures for monitoring local school systems and State operated programs are based on the model developed by OSEP. MSDE made presentations on the revised monitoring system for local directors of special education, public agency staff members, local school superintendents, local special education advisory committees and stakeholders. The State made additional presentations at State conferences for both general and special educators, and public agency administrators, and parent groups such as the Parents' Place of Maryland and the Association for Retarded Citizens of Maryland. The MSDE system is intended to be comprehensive in that it incorporates the use of complaint investigation results, due process results, and analysis of other data available to the State and the public agencies, including court decisions. The MSDE Division of Certification and Accreditation monitors private schools on a three-year cycle. However, a non-public school is monitored on an unscheduled basis if it appears to be problematic. The MSDE Division of Special Education participates in the monitoring process.

MSDE implemented the first stages of its revised monitoring system during the 1998-99 school year. As part of OSEP's 1999 visit, OSEP found that MSDE had not been effective in correcting some of the deficiencies that MSDE had identified in previous State monitoring visits. OSEP notes, however, that MSDE's revised correction procedures had not been in effect a long enough period of time prior to the OSEP visit for OSEP to evaluate the effectiveness of the new procedures. OSEP recommends that MSDE examine its enforcement strategies when evaluating the new monitoring system. For example, OSEP suggests the State review how it is ensuring corrective actions are implemented and whether the actions are yielding improved results for students with disabilities.

2. Disproportionate Placement of Minorities

MSDE is working with the U.S. Department of Education Office of Civil Rights to correct disproportionate placement of minorities in special education programs. The Office for Civil Rights cited five districts. The districts have reached agreement with the Office of Civil Rights and the Office for Civil Rights will review the districts periodically. Additionally, twenty of the 24 districts in Maryland are under plans with the Office of Civil Rights regarding placement of students with disabilities in group homes. In addressing these issues on a Statewide systemic basis, it will be important for MSDE to comply with the requirements of 34 CFR §300.755(b) which require the State to review and revise policies, practices, and procedures in the case of a determination of significant disproportionality with respect to the identification of children as

children with disabilities, or the placement of these children in particular educational settings to ensure that the policies, procedures and practices comply with the requirements of Part B of the Act.

3. Lack of Tracking to Ensure Local Districts Take Effective Action to Correct Noncompliance

When MSDE included corrective actions in decisions, timelines were not always given to the districts to complete the corrective actions and the corrective action plans did not always require local districts to provide MSDE with documentation that the districts implemented the corrective actions. Regarding the determination of corrective actions, OSEP noted that MSDE remands the issues back to the IEP team to determine the specific remedy. 34 CFR 300.660(b) requires MSDE, when resolving a complaint in which it has found a failure to provide appropriate services, to address how to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child. MSDE acknowledged that there was no State system to track whether or not local districts took effective action to correct noncompliance. OSEP suggests that the new State monitoring process include procedures for tracking the effectiveness of local districts' actions to correct noncompliance.